

**THE TOWNSHIP OF EWING
COUNTY OF MERCER, NEW JERSEY**

ORDINANCE NO. 16-12

1st Reading 5-24-16

Date to Mayor 6-15-16

2nd Reading &
Public Hearing 6-14-16

Date Returned _____

Date Adopted:
6-14-16

Date Resubmitted to Council _____

Approved as to Form of Legality

Effective Date:
7-4-16

Township Attorney

AN ORDINANCE ADDING CHAPTER 251 TO THE REVISED GENERAL MUNICIPAL ORDINANCES OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, TO PROHIBIT SMOKING ON PUBLIC PROPERTY

First Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter	X					
Keyes-Maloney	X					X
Steward				X		
Wollert	X				X	
Schroth	X					

Second Reading

MEMBER	AYE	NAY	ABS	NV	RES	SEC
Baxter	X					
Keyes-Maloney	X				X	
Steward	X					X
Wollert	X					
Schroth	X					

By _____ Date _____ Accepted _____ Rejected _____
Mayor

Reconsidered
By Council _____ Override Vote YEA _____ NAY _____

President of the Council

Municipal Clerk

**THE TOWNSHIP OF EWING
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ORDINANCE NO. 16-12

AN ORDINANCE ADDING CHAPTER 251 TO THE REVISED GENERAL MUNICIPAL ORDINANCES OF THE TOWNSHIP OF EWING, COUNTY OF MERCER, TO PROHIBIT SMOKING ON PUBLIC PROPERTY

WHEREAS, pursuant to N.J.S.A. 40:48-2, the governing body of a municipality may make, amend, repeal, and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by this subtitle, or by any law; and

WHEREAS, State legislation that once prohibited municipalities from more proscriptive local smoking laws that differed from the State standards has now been repealed and the State now expressly authorizes municipalities to enact strict ordinances regulating smoking under N.J.S.A. 26:3D-63; and

WHEREAS, N.J.S.A. 2C:33-13b also provides that the owner and/or operator of a public place, such as public parks and recreational areas, may prohibit smoking on such property; and

WHEREAS, the Township of Ewing recognizes the health and safety risks posed by smoking and finds that it is within the public interest to prohibit smoking in public buildings and on certain portions of public property, such as structures found on public parks and recreation areas; and

WHEREAS, the Mayor and Council of Ewing have determined that it is of particular public interest as it relates to preventing Ewing's youth from being exposed and succumbing to the temptations of experimenting with tobacco products; and

WHEREAS, the Township of Ewing also finds that the appearance of parks and recreation areas can be enhanced and the limited resources of the Township's Department of Public Works can be conserved if smoking is banned within certain areas of its parks and recreational spaces, thereby keeping such areas free of the litter typically generated by the smoking of cigarettes, such as cigarette butts, ashes and packaging.

NOW, THEREFORE BE IT RESOLVED, by the Council of the Township of Ewing, that the Code of the Township of Ewing be amended to include a new Chapter 251 "Smoking" as follows:

Section 1

§251-1. Definitions. As used in this chapter, the following words shall have the following meanings:

ENCLOSED FACILITY shall mean all space between a floor and a ceiling, that is enclosed on all sides by solid walls or windows and extending to the outer perimeter walls of a structure.

PARKS AND RECREATIONAL FACILITIES shall include all public parks, playgrounds, ball fields, publicly owned or leased by the Township of Ewing and all property owned or leased by the Township of Ewing upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle.

MUNICIPAL BUILDINGS shall include all structures owned, leased, rented and/or operated by the Township of Ewing, and/or occupied by Township of Ewing employees and used for official business of the Township of Ewing.

SMOKING shall include the burning of, inhaling from, exhaling the smoke from, or the possession of a lighted cigar, cigarette, pipe or any other matter or substance which contains tobacco or any other matter that can be smoked, or the inhaling or exhaling of smoke or vapor from an electronic smoking device.

STRUCTURES shall mean, but is not limited to, refreshment stands, playground equipment, bleachers, baseball diamond dugouts, pools, pool shade structures and pavilions.

§251-2. Prohibition of smoking in certain public places; signs.

A. Smoking shall be prohibited in all Municipal Buildings as defined herein. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted at each Municipal Building entrance and within each closed area or structure where smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

B. Smoking shall be prohibited within a one hundred (100) foot radius of any entrance to any Municipal Building. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted both on the building and at the one hundred (100) foot perimeter of the entrance of all Municipal Buildings where smoking is prohibited by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrast in color with the sign, indicating that smoking is prohibited therein. The sign shall also indicate that violators are subject to a fine.

C. Smoking shall be prohibited within one hundred (100) feet of any enclosed facilities and other structures located within all parks, playgrounds, sports fields and recreational properties, owned, leased or operated by the Township of Ewing or by the Ewing Township Recreation Commission. No-smoking signs or the international no-smoking symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a diagonal red line through its cross section) shall be clearly, sufficiently and conspicuously posted in all areas regulated by this chapter. The signs shall be clearly visible to the public and shall contain letters or a symbol which contrasts in color with the sign, indicating that smoking is prohibited at the designated area. The sign shall also indicate that violators are subject to a fine.

D. Smoking shall be prohibited in any vehicle owned, leased, operated by or registered to the Township of Ewing.

§251-3. Enforcement.

The enforcement authority of this chapter shall be the Police Department, Fire Department, Recreation Department, Public Works Department and Health Department of the Township of Ewing.

§251-4. Violations and penalties.

Any person who violates any provision of this chapter shall be subject to a fine of not less \$50 nor more than \$100 for the first offense, not less than \$100 nor more than \$250 for a second offense; and not less than \$250 nor more than \$500 for each subsequent offense. Any municipal employee found in violation of this chapter may also be subject to discipline in accordance with the provisions of the Township of Ewing's policies and procedures.

§251-5. Smoking Prohibited if otherwise restricted by law.

No provision in this Ordinance shall be construed or interpreted to allow smoking where it is otherwise restricted by other laws.

Section 2 If any section or provision of this ordinance shall be invalid in any court the same shall not affect the other sections or provisions of this ordinance except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

Section 3 All ordinances or parts of ordinances to inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 4 This ordinance shall take effect after final passage and upon publication as provided by law.

Section 5 Upon the effective date of this ordinance, the Township Clerk's Office is hereby instructed to immediately forward a certified copy of this ordinance to the Township of Ewing Police Chief and Municipal Judge.

STATEMENT

This Ordinance prohibits smoking in all Township buildings and vehicles and in specified areas in Township parks and other Township owned properties.